



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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**STATE ENVIRONMENTAL POLICY ACT
DETERMINATION OF NONSIGNIFICANCE**

Date of Issuance: March 22, 2017

Lead agency: Department of Ecology, Hazardous Waste & Toxics Reduction, Pollution Prevention and Regulatory Assistance Section, Reducing Toxic Threats Unit

Agency Contact: Kara Steward, kara.steward@ecy.wa.gov, 360-407-6250

Description of proposal: Ecology proposes to amend an existing rule - Children's Safe Products – Reporting Rule, WAC 173-334. The Children's Safe Products – Reporting Rule identifies chemicals of high concern to children (CHCCs) and establishes requirements for manufacturers to annually report the presence of CHCCs in children's products to Ecology.

These rule changes:

- Add 21 chemicals to the list of CHCCs based on new scientific data;
- Remove 3 chemicals from the list of CHCCs based on revised scientific data;
- Change some grouped CHCCs into individual listings;
- Set a single annual reporting date consistent with reporting in other states;
- Make other minor amendments that include:
 - Updating the reporting schedule to remove obsolete phase-in requirements.
 - Using the term “de minimis” to refer to existing minimum chemical reporting levels.
 - Clarifying that resubmission of identical annual data (copy and paste) is sufficient, instead of a letter to Ecology confirming no changes from the previous annual report.
 - Updating chemical names to be consistent with terminology in the product testing database.

Location of proposal: Statewide

Ecology has determined that this proposal will not have a probable significant adverse impact on the environment for the following reasons:

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1. The proposed rule language is adding and removing chemicals from the reporting list for manufacturers who must submit information on chemicals present in children's products offered for sale in Washington.
2. The other proposed minor updates and technical corrections are not substantive.

An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist in conjunction with all of the materials and discussions related to the Children's Safe Products-Reporting Rule. This is available at:

http://www.ecy.wa.gov/programs/hwtr/laws_rules/CSP_ReportingRule/1608docs.html

The comment period for this DNS corresponds with the comment period on the Children's Safe Products-Reporting Rulemaking CR102 which ends on May 12, 2017.

Please submit comments to: kara.steward@ecy.wa.gov

Staff contact for questions and concerns:

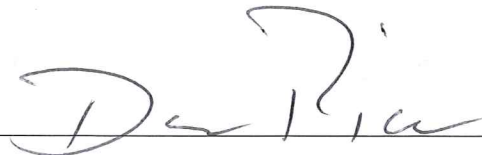
Kara Steward
Reducing Toxic Threats Unit
Department of Ecology
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360 407-6250

Responsible official:

Darin Rice
Program Manager, Hazardous Waste & Toxics Reduction Program
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
360-407-6702

Date of Issuance: March 22, 2017

Signature



Date

3/15/17



SEPA

ENVIRONMENTAL CHECKLIST

A. Background

1. Name of proposed project, if applicable:

Ecology proposes to amend an existing rule – Children’s Safe Products Reporting Rule (CSPA Reporting Rule), Chapter 173-334 Washington Administrative Code (WAC). CSPA Reporting Rule identifies Chemicals of High Concern to Children (CHCCs) and the requirements for manufacturers to annually report the presence of CHCCs in children’s products offered for sale in Washington.

2. Name of applicant:

Hazardous Waste and Toxics Reduction Program, Pollution Prevention and Regulatory Assistance Section, Reducing Toxic Threats Unit. Department of Ecology

3. Address and phone number of applicant and contact person:

Hazardous Waste and Toxics Reduction Program
Department of Ecology
P.O. Box 7600
Olympia, WA 98504-7600
Contact: Kara Steward (360) 407-6250

4. Date checklist prepared:

February 10, 2017

5. Agency requesting checklist:

Department of Ecology

6. Proposed timing or schedule (including phasing, if applicable):

CSPA Reporting Rule completed schedule:

- August 9, 2016 – published CR101 Notice.
- August 16, 2016 – listserv message asking for comments by September 14, 2016.
- September 9, 2016 – listserv message announcing the October 25, 2016 workshop.
- September 14, 2016 – received initial comments from stakeholders.
- October 3, 2016 – posted preliminary draft rule language on the rule website.
- October 5, 2016 – posted stakeholder comments on the rule website.
- October 25, 2016 – held stakeholder rule workshop (in-person and webinar).

- October 31, 2016 – posted chemical evaluations, workshop slides and recording, list of workshop attendees, and Q&A on the rule website.
- November 14, 2016 – received comments from stakeholders.
- December 13, 2016 – posted updated draft rule language and stakeholder comments on the rule website.
- January 4, 2017 – held a stakeholder rule webinar (no in-person option).
- January 10, 2017 – posted updated chemical evaluations, workshop slides, list of workshop attendees and Q&A on the rule website.
- January 13, 2017 – received comments from stakeholders.
- January 24, 2017 – posted updated chemical evaluations and stakeholder comments on the rule website. Sent a listserv announcement with a modification to one section of the rule language asking for feedback.

CSPA Reporting Rule anticipated schedule:

- March 22, 2017 – publish the CR102 Proposal.
- April 25, 2017 – hold a public hearing (in-person and webinar).
- May 12, 2017 – end public comment period.
- September 1, 2017 – publish CR103 Adoption.
- October 2, 2017 – rule effective date (31 days after adoption).
- January 31, 2019 – first annual reports are due following rule adoption.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

Ecology anticipates another update to the CSPA Reporting Rule in three to five years.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

See Appendix A – Citation List.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

Not applicable.

10. List any government approvals or permits that will be needed for your proposal, if known.

Ecology must adopt the rule as required under the Administrative Procedures Act, Chapter 34.05 Revised Code of Washington (RCW) and the Regulatory Fairness Act, Chapter 19.85 RCW. As part of the rulemaking process, Ecology must prepare a preliminary cost-benefit economic impact analysis and a small business economic impact statement on the proposed rule amendment. A final cost-benefit analysis must be prepared on the adopted rule.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The 2016 Washington State Legislature passed House Bill (HB) 2545 identifying six flame retardants to be "considered for inclusion" on the CHCCs list in the CSP reporting rule – that amendment is located in RCW 70.240.025.

Ecology and the Washington Department of Health (Health) evaluated the six flame retardants and other chemicals against the CHCC criteria in the law. Ecology worked with stakeholders to identify other chemicals to be considered for addition to or deletion from the CHCCs list. Ecology also updated, streamlined, and harmonized the rule language.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

This rule applies to retailers, importers, wholesalers, manufacturers, and distributors selling or offering the sale of children's products that contain CHCCs. This includes in-state and out of state businesses. There is no precise location of this proposal.

B. Environmental Elements

This section of the SEPA checklist does not apply to this rulemaking.

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:



Name of signee

Darin Rice

Position and
Agency/Organization:

Program Manager, Hazardous Waste & Toxics
Reduction Program, Department of Ecology

Date Submitted:

March 22, 2017

D. Supplemental sheet for nonproject actions

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Because the CSP-Reporting Rule identifies the CHCCs and details the process for manufacturers to report to Ecology it does not affect discharges to water; emissions to air; production, storage, or releases of toxic or hazardous substances; or production of noise.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Implementation of the CSP-Reporting Rule update is not likely to affect plants, animals, fish, or marine life.

3. How would the proposal be likely to deplete energy or natural resources?

Implementation of the CSP-Reporting Rule update is not likely to deplete energy or natural resources.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Implementation of the CSP-Reporting Rule update is not likely to affect environmentally sensitive areas or areas designated for governmental protection.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Implementation of the CSP-Reporting Rule update is not likely to affect land and shoreline use.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Implementation of the CSP-Reporting Rule update is not likely to increase demands on transportation or public services and utilities.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Implementation of the CSP-Reporting Rule update is not likely to conflict with local, state, or federal laws or requirements for protecting the environment. The U.S. Environmental Protection Agency regulates the use of chemicals under the Toxic Substances Control Act (TSCA). The 2016 amendment to TSCA does not pre-empt state regulations on reporting. The federal Consumer Protection Safety Commission limits specific chemicals in children's products under the federal Consumer Product Safety Improvement Act but does not require manufacturers to report. Other Washington regulations require reporting for chemical emissions or disposal but not for children's products. Three other states require manufacturers to report on chemicals in children's products: Maine (Toxic Chemicals in Children's Products), Vermont (Chemicals of High Concern to Children), and Oregon (Toxic Free Kids Act).